run, and therefore we held that it was error to enter a nonsuit. Geese, however, are phlegmatic and slow of movement, and the blowing of the whistle or ringing the bell would not be calculated to make them run or fly. On the contrary, the approach of the train would be more likely to cause them to huddle up in conference or to stretch out their necks to oppose the passage of the engine. In the absence of evidence showing circumstances of actual negligence, the mere fact that the whistle was not blown or the bell rung did not authorize the court to submit the case to the jury. * * * The difference between the characteristics of a turkey and of a goose is a matter of common knowledge. The turkey is long-legged quick of movement, and promptly responsive to a signal of danger. The goose is short-legged, slow to fly or run, and resentful rather than appreciative of a warning of danger. Though of equal intelligence probably with most other fowl, this has made its name a synonym for stupidity. While a turkey on the track would be likely to save itself by flight if the whistle were sounded in time, geese would be likely to put their heads together, or at most waddle down the track away from the noise. * * * We are cited to the classic legend in Livy (Book xxv, c. 47) when Rome was saved by the cackling of the geese on the Capitol. A great painter has memorialized the scene. This, however, was not due to the alertness of these birds to flee danger, but to their well-known wakefulness at night. If the Gauls had blown their trumpets, the geese, instead of promptly getting out of the way, would simply have raised more clamor and hissed the warriors on both sides."

Nurse Inveigles Doctor into Marriage.—This was an action to annul a marriage on the ground of mental incapacity of plaintiff caused by the administration of drugs by the defendant at the time of entering into the contract of marriage. Plaintiff was a physician 46 years of age and defendant a nurse 30 years of age. Plaintiff was troubled with insomnia, and had, at times, taken large quantities of drugs to overcome this, and at the time in question his nervous condition and his drug habit were greatly increased by the serious illness of his mother, to whom he was greatly devoted. On January 26, 1913, her condition became such as to cause him great mental worry. Up to this date plaintiff had met defendant only a few times, scarcely knowing her name, but on and after that date she visited his home every day and kept him at her sanitarium at nighttime, giving him drugs and hot baths, as she says, to produce sleep. She kept him under her control until the 4th day of February the forenoon of which day they applied for a marriage license, which was refused on request of friends, who had plaintiff examined by physicians and found incompetent, through the effects of drugs, to enter into a marriage; but about 11:30 that evening they obtained

the license and were married at midnight. Plaintiff claims that he has no recollections of the courtship or engagement, the latter of which was claimed by the defendant to have taken place January 30th. The Supreme Court of Washington said that the marriage was not validated by consummation or ratification, and that the evidence was sufficient to sustain a decision in favor of plaintiff. Waughop *v.* Waughop, 143 Pacific Reporter, 444.

Burglarious Entry with Key.—Defendant, in State *v.* Corcoran, decided by the Supreme Court of Washington, and reported in 143 Pacific Reporter, 453, was convicted of burglary. It appeared that he had been in the employ of a harness manufacturer, and was supplied by his employer with a key to the building in which the business was carried on, with the understanding that he was to open up the shop about 7 o'clock in the morning, and presumably to close it at the proper time in the evening. Eventually, articles of harness were missed from the shop, and persons were employed to watch defendant's coming and going. The evidence was apparently sufficient to show that he at various times entered the building at night and long before working hours in the morning, and that he was responsible for the disappearance of his employer's property; but he claimed that he could not be convicted of burglary because he committed no "breaking" of the premises in order to get in. The court held, however, that the fact that he was supplied with a key did not authorize him to go into the building at his own convenience, and upheld the conviction.

Prisoner Complains of Lack of Exercise.—Plaintiff, in Forman *v.* City of Central, 143 Pacific Reporter, 573, was arrested for violation of an alleged ordinance of the City of Central Colorado, and confined in jail over night pending his trial, on which he was convicted and sentenced to a fine and costs, which he refused to pay, and also refused to work out the same on the street, and was thereupon released. He then instituted an action against the city for damages from the acts of its officers, alleging that the ordinance under which he was arrested and convicted was void, and that he suffered many inconveniences, dangers, and humiliations; that the jail was a cold frame building; that he was required to get up during the night to supply the fire with fuel; also that during the night he was "deprived of all exercise necessary and requisite to his good health and comfort." The Supreme Court of Colorado rather sarcastically remarks that "this allegation is inconsistent with that to the effect that he declined to work upon the streets the next day, and is not followed with any statement that his health was affected on account of the want of exercise during that period."